

Nuclear Regulatory Commission

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inventions are issued pursuant to the authority of the Commission under 42 U.S.C. 2186 (sec. 156 of the Act), 42 U.S.C. 2201g (sec. 161g. of the Act), and according to regulations issued by the Administrator of General Services pursuant to the Memorandum and Statement of Government Patent Policy issued by President Nixon on August 23, 1971 (36 FR 16887).

§ 81.11 Policy.

(a) The inventions covered by the U.S. patents and patent applications vested in the Government of the United States of America, as represented by or in the custody of the Commission, normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest time possible.

(b) The Commission generally prefers to make these inventions available to all interested parties through the granting of nonexclusive licenses. However, the Commission recognizes that to obtain commercial utilization of an invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the Commission deems it appropriate to grant an exclusive license, the license will be negotiated on terms and conditions most favorable to the interests of the public and the Government. In considering the accord of such a license, due weight will be given to assisting small business and minority business enterprises, as well as economically depressed, low income and labor surplus areas within the United States.

(d) All licenses shall be by express written instruments. No license shall be granted or implied in an NRC invention except as provided for in these regulations or in patent rights articles under Commission procurement regulations, pursuant to the Act, or pursuant to any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization.

(e) No grant of a license under this subpart shall be construed to confer upon any licensee any immunity from

the antitrust laws or from liability for patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of State or Federal law by reason of the source of the grant.

(f) No grant of a license under this subpart shall be construed to confer any authorization under chapters 4, 5, 6, 7, 8, 10, or any other chapter or section of the Act (42 U.S.C., sec. 2011-2296) for which separate application for a license must be made in accordance with the Act or other Commission regulations.

§ 81.13 Publication of NRC inventions available for licensing.

(a) The Commission will have published periodically a list of the NRC inventions available for licensing under this subpart in the FEDERAL REGISTER, the U.S. Patent Office Official Gazette, and in one other publication which it is determined will best serve the public interest and, where advisable, in other publications.

(b) Interested persons may obtain copies of such lists by communicating with the Commission, Washington, DC 20555. Copies of U.S. patents may be obtained from the U.S. Patent Office. Copies of U.S. patent application specifications, or microfiche reproductions thereof, may be secured at reasonable cost from the National Technical Information Service (NTIS) or from the U.S. Patent Office with Commission approval.

[38 FR 7318, Mar. 20, 1973, as amended at 40 FR 8793, Mar. 3, 1975]

§ 81.20 Nonexclusive licenses.

(a) NRC inventions will normally be made available for the grant of nonexclusive licenses to responsible applicants who will practice the invention and make its benefits reasonably accessible to the public.

(1) The nonexclusive license will be revocable, at the option of the Commission, if the licensee does not comply with all the terms and conditions of the license agreement.

(2) The duration of the license shall be for a specified period and/or such additional period as may be provided for in the license agreement.

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(3) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license agreement, or as the period may be extended by the Commission, and then to continue to make the benefits of the invention reasonably accessible to the public.

(4) The license shall be granted for all of the fields of use of the invention, or only such fields of use as may be specified in the license agreement, and throughout the United States of America, its territories and possessions, Puerto Rico, and the District of Columbia or in any lesser geographic portion thereof as may be specified in the license agreement.

(5) The licensee shall be required to submit periodic reports on his efforts to bring the invention to a point of practical application and the extent to which he continues to make the benefits of the invention reasonably accessible to the public. Unless otherwise specified in the license, such periodic reports will be required annually prior to the anniversary date of the grant of the license. The reports shall contain information within the licensee's knowledge, or which the licensee may acquire under normal business practices, pertaining to the commercial use being made of the invention, and other information which the Commission may determine to be pertinent to the licensing activity of the Commission and specified in the license agreement.

(6) Normally a royalty shall not be charged U.S. citizens and U.S. corporations for nonexclusive licenses on NRC inventions.

(7) The license may extend to wholly-owned subsidiaries of the licensee but shall be nonassignable, or otherwise nontransferable, without approval of the Commission.

(8) The Commission may revoke the license (i) for failure of the licensee to bring the invention to the point of practical application or to continue to make the benefits of the invention reasonably accessible to the public, (ii) if the licensee defaults in making any periodic report required by the license, or (iii) if the licensee commits any breach of any covenant or agreement therein contained, or (iv) if the li-

cencee willfully makes, or has made, a false statement of a material fact or omitted a material fact in the license application submitted pursuant to § 81.40(a) or in any report required by the license agreement.

(9) The Commission may restrict the licensee to the particular fields of use and/or geographical areas in which the licensee has brought the invention to the point of practical application and continue to make the benefits of the invention reasonably accessible to the public.

(10) Before revoking or restricting any license granted pursuant to this subpart, the Commission shall mail to the licensee and any sublicensee of record, at the last address filed with the Commission, a written notice of the Commission's intention to revoke or restrict the license, and the licensee and any sublicensee shall be allowed thirty (30) days after the mailing of such notice, or within such period as may be granted by the Commission, to remedy any breach of any covenant or agreement as referred to in paragraph (a)(8)(iii) of this section, or to show cause why the license should not be revoked or restricted.

(11) Subject to the rights reserved to the Government in this section, the licensee shall be granted the nonexclusive rights to make, use, and/or sell the invention in accordance with the terms and conditions specified in the license agreement.

(12) The license may be subject to such other terms and conditions as the Commission may deem in the public interest.

§ 81.30 Limited exclusive licenses.

(a) An NRC invention may be made available for the grant of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 81.13 for a period of at least six (6) months.

(2) The Commission has determined that (i) the invention may be brought to the point of practical application in certain fields of use or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any